



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 14, 1995

Mr. Michael D. Chisum  
General Counsel  
Texas State Board of Examiners of Psychologists  
9101 Burnet Road, Suite 212  
Austin, Texas 78758

OR95-114

Dear Mr. Chisum:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27592.

The Texas State Board of Examiners of Psychologists (the "board") received a request for information relating to the board's investigation of a complaint filed against a psychologist licensed by the board. You claim the requested information is excepted from required public disclosure under sections 552.101, 552.103, and 552.108 of the Government Code.

You claim that the requested information is protected by the attorney-client privilege under section 552.101 of the Government Code. This office determined in Open Records Decision No. 574 (1990) that section 552.107, and not section 552.101, protected information within the attorney-client privilege. Your claim of attorney-client privilege under section 552.101 is sufficient to raise section 552.107.

However, we sent you a letter dated August 12, 1994, indicating that part of the board's burden in raising section 552.107 was to mark the documents as to what specific portions of the information consist of client confidences and what portions consist of attorney advice or opinion. The documents in question were returned to the board, and the board was notified that it had seven days to comply and resubmit the *marked document*. Furthermore, the board was informed that if it did not comply, the information that was not deemed confidential by law must be released. See Open Records Decision No. 630 (1995) (concluding that mere fact that information falls within § 552.107(1) does

not constitute compelling reason to overcome presumption of openness arising from failure to comply with Open Records Act's provisions). As you have not resubmitted the documents to this office, if you have not already done so, you must release the information that is not deemed confidential by law.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Loretta DeHay". The signature is written in a cursive, flowing style.

Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/LBC/rho

Ref.: ID# 27592

cc: Mr. D. John Leger  
Leger, Coplen & Jefferson  
5847 San Felipe, Suite 2440  
Houston, Texas 77057-3010